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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,881	06/16/2005	Heike Gregorius	09086-00227-US	5005
34872 BASELL USA 1	7590 12/29/200 INC.	EXAMINER		
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912 APPLETON ELKTON, MD			ART UNIT	PAPER NUMBER
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SHORTENED STATUTORY	PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
3 MONTHS		12/29/2006	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application No.	Applicant(s)		
		10/539,881	GREGORIUS ET AL.		
	Office Action Summary	Examiner	Art Unit		
		Caixia Lu	1713		
Period fo	The MAILING DATE of this communication app or Reply	pears on the cover sheet with the c	correspondence address		
WHIC - Exter after - If NO - Failu Any r	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DANSIONS of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. Poeriod for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tin will apply and will expire SIX (6) MONTHS from , cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).		
Status					
1)⊠	Responsive to communication(s) filed on 23 Oc	<u>ctober 2006</u> .			
2a)⊠	This action is FINAL . 2b) This action is non-final.				
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
	closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 4	53 O.G. 213.		
Dispositi	on of Claims				
5)□ 6)⊠ 7)□	Claim(s) <u>16-24</u> is/are pending in the application 4a) Of the above claim(s) is/are withdraw Claim(s) is/are allowed. Claim(s) <u>16-24</u> is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restriction and/or	wn from consideration.			
Applicati	on Papers				
10)	The specification is objected to by the Examiner The drawing(s) filed on is/are: a) acce Applicant may not request that any objection to the o Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Ex	epted or b) objected to by the I drawing(s) be held in abeyance. Sec ion is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).		
Priority u	ınder 35 U.S.C. § 119				
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
	e of References Cited (PTO-892)	4) Interview Summary			
3) 🔲 Inform	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO/SB/08) No(s)/Mail Date	Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:			

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DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 16-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16 does not share the same scope as the original claim 1 filed previously. The original claim 1 is claiming a process of making a catalyst comprising a) combining a support such as silica with aluminoxane to form a treated support and subsequently (b) contacting the treated support with the reaction product of a metallocene compound and alkylaluminum of formula (VIII). However, the current claim 16 is claiming a process of making said catalyst comprising a) combining a support such as silica with aluminoxane to form a treated support and subsequently (b) reacting a metallocene compound and alkylaluminum of formula (VIII). The description on page 5, lines 6-7 is ungrammatical, the examiner suggest changing the current claim language back to the original language as filed in original claim 1. The limitation, "the suspension medium is removed by evaporation after the metallocene compound of formula (I) is reacted with the at least one organometallic compound of formula (VIII)", is not in the claims previously filed.

Claim Rejections - 35 USC § 102

2. Claims 16-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Suhm et al. (WO 01/46274, the equivalent US 2003/0130443 is referred hereinafter).

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Suhm's paragraphs [0311] to [0313] on page 14 as cited in the previous Office action teaches a process for making a supported catalyst comprising (i) reacting silica and methylaluminoxane (MAO) in a solution to provide a treated silica; subsequently (ii) contacting the solution of dimethylsilanediylbis(2-methyl-4,5-benzindenyl)zirconium dichloride and MAO with the treated silica to provide a slurry, and (iii) distilling off the solvent in vacuo to provide free-flowing catalyst particulate. It is understood that MAO used in the lab is actually a mixture of methylaluminoxane and trimethyl aluminum, thus, the solution of dimethylsilanediylbis(2-methyl-4,5-benzindenyl)zirconium dichloride and MAO comprising the product of dimethylsilanediylbis(2-methyl-4,5-benzindenyl)zirconium dichloride and trimethyl aluminum. Thus, Suhm's solution of dimethylsilanediylbis(2-methyl-4,5-benzindenyl)zirconium dichloride and MAO comprises the reaction product of dimethylsilanediylbis(2-methyl-4,5-benzindenyl) zirconium dichloride and trimethyl aluminum. Therefore, Suhm's teaching anticipates the instant claims.

Claim Rejections - 35 USC § 103

3. Claims 16-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakayama et al. (US 6,339,128) and Suhm et al. (WO 01/46274, the equivalent US 2003/0130443 is referred hereinafter).

Suhm's teaching is relied upon as shown above. It is noted the cited prior art does not expressly teach contacting the metallocene and the trialkyl aluminum alone prior to contacting the alumoxane treated support. It is noted that the metallocene complex of the cited prior are chlorinated metallocene which often has poor solubilities

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in hydrocarbons, the chlorinated metallocenes are routinely treated with alkyl aluminum before use to provide the alkylated metallocene with improved solubilities in the reaction media.

Thus, it would have been obvious to a skilled artisan at the time the invention was made to employ treat the chlorinated metallocene complex with alkyl aluminum to provide an alkylated metallocene with improved solubility in the reaction media to provide a supported catalyst with minimized unsupported metallocene and thus reduce fouling during the polymerization process and in the absence of any showing criticality and unexpected results. When the alkylated metallocene prepared by treating the chlorinated metallocenes with alkyl aluminum is used to prepare the catalyst composition, the teaching of the cited prior art meets the limitation of the instant claims.

Response to Arguments

4. Applicant's arguments filed October 23, 2006 have been fully considered but they are not persuasive. Applicants have not yet specifically indicated which claimed limitation is not taught or rendered to be obvious in the cited prior, thus, the rejection is stilled deemed to be proper and maintained.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Caixia Lu whose telephone number is (571) 272-1106. The examiner can normally be reached from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful and the matter is urgent, the examiner's supervisor, David Wu, can be reached at (571) 272-1114. The fax numbers for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1700.

Căixia Lu, Ph. D. Primary Examiner